

# PATENT COOPERATION TREATY

From the  
INTERNATIONAL SEARCHING AUTHORITY

REC'D 03 FEB 2006
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## PCT

To:

see form PCT/ISA/220

### WRITTEN OPINION OF THE INTERNATIONAL SEARCHING AUTHORITY (PCT Rule 43bis.1)

Date of mailing  
(day/month/year) see form PCT/ISA/210 (second sheet)

Applicant's or agent's file reference see form PCT/ISA/220		<b>FOR FURTHER ACTION</b> See paragraph 2 below	
International application No. PCT/IL2005/001078	International filing date (day/month/year) 11.10.2005	Priority date (day/month/year) 18.10.2004	
International Patent Classification (IPC) or both national classification and IPC G01N15/14, B01L3/00, C12M1/22			
Applicant MOLECULAR CYTOMICS LTD.			

1. This opinion contains indications relating to the following items:
- Box No. I Basis of the opinion
  - Box No. II Priority
  - Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
  - Box No. IV Lack of unity of invention
  - Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
  - Box No. VI Certain documents cited
  - Box No. VII Certain defects in the international application
  - Box No. VIII Certain observations on the international application

2. **FURTHER ACTION**

If a demand for international preliminary examination is made, this opinion will usually be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA"). However, this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of three months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

<p>Name and mailing address of the ISA:</p> <div style="display: flex; align-items: center;"> <div> <p>European Patent Office D-80298 Munich Tel. +49 89 2399 - 0 Tx: 523656 epmu d Fax: +49 89 2399 - 4465</p> </div> </div>	<p>Authorized Officer</p> <p>Tiede, R</p> <p>Telephone No. +49 89 2399-1090</p> <div style="text-align: right;"> </div>
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**WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY**

International application No.  
PCT/IL2005/001078

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**Box No. I Basis of the opinion**

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1. With regard to the **language**, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.
    - This opinion has been established on the basis of a translation from the original language into the following language , which is the language of a translation furnished for the purposes of international search (under Rules 12.3 and 23.1(b)).
  2. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:
    - a. type of material:
      - a sequence listing
      - table(s) related to the sequence listing
    - b. format of material:
      - in written format
      - in computer readable form
    - c. time of filing/furnishing:
      - contained in the international application as filed.
      - filed together with the international application in computer readable form.
      - furnished subsequently to this Authority for the purposes of search.
  3.  In addition, in the case that more than one version or copy of a sequence listing and/or table relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.
  4. Additional comments:
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WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY

International application No.  
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Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

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1. Statement

Novelty (N)	Yes: Claims	
	No: Claims	1-49
Inventive step (IS)	Yes: Claims	
	No: Claims	1-49
Industrial applicability (IA)	Yes: Claims	1-49
	No: Claims	

2. Citations and explanations

see separate sheet

Re Item V.

1 Reference is made to the following documents:

D1 : US 5 707 869 A (WOLF ET AL) 13 January 1998 (1998-01-13)

D2 : US 2002/189374 A1 (DESILETS KENNETH ET AL) 19 December 2002 (2002-12-19)

D3 : US 2003/124716 A1 (HESS ROBERT A ET AL) 3 July 2003 (2003-07-03)

D4 : US 5 650 323 A (ROOT ET AL) 22 July 1997 (1997-07-22)

D5 : US-A-4 308 351 (LEIGHTON ET AL) 29 December 1981 (1981-12-29)

D6 : US 2003/104494 A1 (RAVKIN ILYA ET AL) 5 June 2003 (2003-06-05)

2 INDEPENDENT CLAIM 1

2.1 The present application does not meet the criteria of Article 33(1) PCT, because the subject-matter of claim 1 is not new in the sense of Article 33(2) PCT.

Document D1 discloses (the references in parentheses applying to this document): A device for the study of cells comprising a vessel (e.g. fig. 4, ref. 10) with bottom edge top edge defining a rim and said rim surrounding an opening and a current damper (membrane 20) substantially disposed within said vessel. In D1 cell handling methods comprise loading cells into said vessel on a bottom surface (120), disposing a damping component (membrane with or without membrane support, ref. 20) within said vessel (10) and adding a material to said vessel (basal liquid) and wherein said damping component damps currents and thus reduce movement of said cells. D1 also discloses floating, moveable and fixed membranes, additional inlet ports to directly access and circumvent the damping component

2.2 The present application does not meet the criteria of Article 33(1) PCT, because the subject-matter of claim 1 is not new in the sense of Article 33(2) PCT.

Document D2 discloses (the references in parentheses applying to this document): A device for the study of cells with a vessel (well with bottom and rim, e.g. fig. 1-4) and a damping component (filter insert) disposed in said well and suitable to dampen fluid currents below said filter when liquid is introduced. Furthermore it also discloses a vessel (tray with bottom and rim, fig. 10-11) and damping components (baffles) in

said vessel to dampen fluid flow but which allow unimpeded fluid communication through gaps or on a side of said components.

2.3 The present application does not meet the criteria of Article 33(1) PCT, because the subject-matter of claim 1 is not new in the sense of Article 33(2) PCT. Document D3 discloses (the references in parentheses applying to this document): A device for the study of cells with a vessel (with bottom and rim, fig. 23) and damping components (baffle) fixed in said vessel to dampen fluid flow but which allow unimpeded fluid communication through gaps or on a side of said components.

2.4 The present application does not meet the criteria of Article 33(1) PCT, because the subject-matter of claim 1 is not new in the sense of Article 33(2) PCT. Document D4 discloses (the references in parentheses applying to this document): A device for the study of cells with a vessel (well with bottom and rim, e.g. fig. 4) and a damping component (filter insert) disposed in said well and suitable to dampen fluid currents below said filter when liquid is introduced.

2.5 The present application does not meet the criteria of Article 33(1) PCT, because the subject-matter of claim 1 is not new in the sense of Article 33(2) PCT. Document D2 discloses (the references in parentheses applying to this document): A device for the study of cells with a vessel (well with bottom and rim, e.g. fig. 7) and a damping component (culture insert with membrane, ref. 50) disposed in said well and suitable to dampen fluid currents below said filter when liquid is introduced.

2.6 The present application does not meet the criteria of Article 33(1) PCT, because the subject-matter of claim 1 is not new in the sense of Article 33(2) PCT. Document D2 discloses (the references in parentheses applying to this document): A device for the study of cells with a vessel (well with bottom and rim, e.g. fig. 7-9, example 3, 4) and a damping component (well insert) disposed in said well and suitable to dampen fluid currents below said filter when liquid is introduced. Furthermore it also discloses lips or ledges parallel to said well bottom of sub-wells to prevent turbulence within said well insert (example 8).

**3 INDEPENDENT CLAIM 32**

- 3.1 As can be seen from point 2.1 D1 discloses also all technical features of independent claim 32. Thus, does the present application not meet the criteria of Article 33(1) PCT, because the subject-matter of claim 32 is not new in the sense of Article 33(2) PCT.
- 3.2 Also D5 and D6 disclose methods to study cells which include cell introduction, disposing inserts into said wells and adding another material and wherein said inserts dampen fluid currents when liquid is added. Thus they disclose all technical features of method claim 32. Consequently, Claim 32 does not meet the criteria of Article 33(1) PCT, because the subject-matter of claim 32 is not new in the sense of Article 33(2) PCT.
- 4 **DEPENDENT CLAIMS 2-31, 33-49**  
Dependent claims 2-31, 33-49 do not contain any features which, in combination with the features of any claim to which they refer, meet the requirements of the PCT in respect of novelty and/or inventive step (Article 33(2) and (3) PCT), see citations as given above and in the International Search Report.